

COMMONWEALTH OF VIRGINIA

DELEGATE DANNY MARSHALL, III Chair
SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



POCAHONTAS BUILDING
900 EAST MAIN STREET, 10th FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-698-1875 Director

epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

Meeting Summary

Wednesday, September 12, 2018, 10:00 a.m.
House Room C, General Assembly Building

Present: Delegate Danny Marshall (Chair), Senator Mamie Locke, Senator George Barker, Senator Bill Stanley, Delegate David Bulova (by phone), Delegate Betsy Carr, Delegate Chris Peace, Ms. Laura Lafayette, Mr. Lawrence Pearson, and the Director, Ms. Elizabeth Palen. Absent: Delegate Barry Knight and Ms. Cynthia Hall.

The meeting was called to order by the Chair at 10:00 a.m.

The Commission heard from two informational speakers, The Honorable Barbara J. Gaden, Chief Judge, Retired, 13th Judicial District, General District Court, and J. Preston Lloyd, Jr., Real Estate/Land Use Attorney, Williams Mullen/Council to Home Builders of Virginia, and received updates from the Director and the workgroup chairs.

Speakers:

Judge Barbara Gaden spoke to the full Commission regarding the court's role in landlord/tenant law and the remedies available to the parties involved. She explained that a typical case is when the tenant fails to pay rent and the landlord wants to evict for rent cost plus damages (unlawful detainer). Occasionally she sees a tenant breach the lease by creating damage to the property or by criminal activity, and occasionally she presides over a case where the tenant brings an action (tenant's assertion) because no utilities are provided by the landlord or the landlord fails to make repairs. If the landlord locks out the tenant for failure to pay rent (a "self-help" eviction), that is an illegal action that must be resolved in court. Many times the landlord will get a judgement against the tenant, but then the tenant and landlord will work out a payment plan.

Judge Gaden said that both tenants and landlords frequently find the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) difficult to navigate and require an attorney to translate the information.

Questions were asked by legislators concerning the discretion on the part of the judge to discount the amount of rent owed if there are portions of the property that are damaged or uninhabitable, and Judge Gaden responded that she and other judges frequently do so. To questions concerning cascading late fees, Judge Gaden responded that she and many judges cap the late fees if rent was paid in preceding months but the late fee was not.

Preston Lloyd spoke to the Commission about trends in real estate and the role of demographics in a shift toward renting over home ownership. He explained that (i) single-family homes are currently not being

DELEGATE DANNY W. MARSHALL
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR GEORGE L. BARKER
SENATOR WILLIAM M. STANLEY, JR.

CYNTHIA HALL
LLAURA D. LAFAYETTE
LAWRENCE PEARSON

built at the rate of multifamily homes throughout the Commonwealth; (ii) there is an increase in demand for age-restricted housing, which is housing for those 55 years and older; and (iii) rising construction costs and a drop in housing supply are driving up home prices.

This presentation is available on the Virginia Housing Commission website at <http://dls.virginia.gov/commissions/vhc.htm?x=mtg>.

Workgroup Reports

Elizabeth Palen reported that each of the workgroups had met, most more than once, and a sub-workgroup on evictions had been formed to assist the Neighborhood Transitions and Residential Land Use Workgroup in developing solutions and possibly recommending legislation concerning evictions for the 2019 Regular Session. Each workgroup is scheduled to meet again. There is not yet legislation to bring to the full Commission, which will meet on December 11 for the final meeting of 2018.

All but two of the topics incorporated into the 2018 interim work plan have been studied and discussed, and a special small workgroup will meet next month to look at the issue brought to the group by Delegate Carr having to do with capital funding sources for replacing public housing.

Affordable Housing, Real Estate Law and Mortgages Workgroup

Chris Peace, chair of the Affordable Housing, Real Estate Law and Mortgages Workgroup, reported that the group met on May 22 and August 7, 2018, and discussed the issue of inoperable vehicles on private property (SB 454, Mason 2018), with Adam Kingsman, Attorney, James City County, and Christy Parrish, Zoning Administrator, James City County, speaking on the issue. A sub-workgroup composed of Chip Dicks (Virginia Association of REALTORS), Michelle Gowdy (Virginia Municipal League), and Joe Lerch (Virginia Association of Counties) is looking at a proposed legislative draft to be brought to the next meeting on October 18.

Another topic, hoarding (HB 391, Keam 2018), was taken up by Matt Paxton, the founder of an organization focusing on hoarding as well as and a TV show host concerning hoarding, he gave the group a riveting presentation. It was determined that there are city ordinances but no statewide legislation regarding this issue in other states; this remains an ongoing issue. Other topics included residential rent-to-own property (SB 280, Petersen 2018 and SB 195, Locke 2018), which has been an on-going topic of discussion for the workgroup, and vested rights and landscape cover (HB 1595, Wilt 2018), about which an agreement was reached that there would be no legislation going forward for the 2019 legislative session. Finally, several speakers addressed the subject of radon and home inspections (SB 460, Stanley 2018), but it is likely that no more action will be taken by the Commission on this topic during this interim.

Neighborhood Transitions and Residential Land Use Workgroup

The Neighborhood Transitions and Residential Land Use Workgroup, chaired by Senator Mamie Locke, met May 7 and July 18, 2018, and discussed many topics, including the Manufactured Home Lot Rental Act (SB 648 and SB 649, McPike 2018 and HB 1050, Torian 2018). Speakers included Bob Adams, President, Housing and Development Associates, Karen Devito, Executive Director of Catholics for Housing/East End Mobile Park Home, and Chip Dicks, Virginia Manufactured Modular Housing Association and Manufactured Housing Communities of Virginia. This topic remains under discussion in the workgroup.

The workgroup heard from a Richmond Real Estate Attorney, Linda Price, on the logistics of the eviction process. This prompted the creation of the Evictions Sub-Workgroup.

In order to best study accessory dwelling structures and zoning implications (SJ 53, Deeds 2018), the group heard many speakers from localities, and a survey of localities concerning freestanding medical units (a form of accessory dwellings) was jointly conducted by the Virginia Housing Commission, the Virginia Municipal League, and the Virginia Association of Counties. Speakers included Bill Fritz, Chief of Special Projects, Albemarle County; Joel Franklin, Housing Planner, Arlington County Housing Division; and at the last meeting, George Homeward, Director of Development, City of Norfolk gave a comprehensive overview on accessory dwellings and zoning implications using Norfolk as an example. The overall sentiment at this point is that localities wish to retain local power to zone and do not wish to be subject to state regulation.

Common Interest Communities Workgroup

David Bulova, chair of the Common Interest Communities Workgroup, reported that the group met August 7, 2018, and discussed home-based businesses (SB 707, Surovell 2018) and many speakers spoke on each side of the issue. Additionally, the topics of reserve fund disclosure on sale and reserve fund budget disclosure (SB 705 and SB 706, Surovell 2018) and liability insurance minimums for associations were discussed; Joe Hudgins, Independent Insurance Agents of Virginia, provided factual information. Senator Surovell provided the context by which these bills came to fruition. Delegate Kelly Convirs-Fowler spoke to this workgroup about POA Lot Owner's Rights (HB 1041, Convirs-Fowler 2018) and the topic will be discussed again at the October 18 meeting. Finally, a report was received from the Common Interest Communities Board's director, Trish Henshaw.

The Commission Chair called for public comment, several members of the public spoke, and then the Chair adjourned the meeting at 12:00 p.m.